



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
AIKEN DIVISION**

JASON MICHAEL MONTGOMERY,  
Petitioner,

vs.

CAPTAIN MICHAEL RASAR,  
Respondent.

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Civil Action No. 1:20-04287-MGL

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**ORDER ADOPTING THE REPORT AND RECOMMENDATION  
AND DISMISSING PETITIONER'S PETITION**

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Petitioner Jason Michael Montgomery (Montgomery), proceeding pro se, filed this habeas corpus petition pursuant to 28 U.S.C. § 2241, challenging his detention by the Barnwell County Sheriff's Department, the decisions made in his criminal case, and his attorney's failure to file motions he believes should be filed.

This matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge recommending Montgomery's petition be dismissed for failure to allege sufficient facts to meet the *Younger v. Harris*, 401 U.S. 37 (1971), test. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo

determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on December 29, 2020. To date, Montgomery has failed to file any objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment of the Court Montgomery’s complaint is **DISMISSED WITH PREJUDICE**.

**IT IS SO ORDERED.**

Signed this 28th day of January 2021, in Columbia, South Carolina.

s/ Mary Geiger Lewis  
MARY GEIGER LEWIS  
UNITED STATES DISTRICT JUDGE

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#### **NOTICE OF RIGHT TO APPEAL**

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.